

MINUTES
BOARD FOR LICENSING HEALTH CARE FACILITIES
May 3, 2006

The Board for Licensing Health Care Facilities was called to order by Dr. James Galyon on May 3, 2006, commencing at 9:00 a.m.

Ms. Gammon called the roll to establish a quorum.

Dr. James T. Galyon, Chairman Pro Tem
Dr. Duane Budd
Ms. Charlotte Burns
Ms. Elizabeth Chadwell
Ms. Estelle Garner
Mr. Robert Gordon
Mr. C. Luke Gregory
Mr. Jim Hastings
Ms. Charlsie Lankford
Ms. Carissa Lynch
Ms. Nancy Peace
Dr. Ronald Staples
Dr. Joe T. Walker
Mr. Carlyle Walton
Mr. James Weatherington

Members not present:

Dr. Larry Arnold, Chairman
Mr. Alex Gaddy
Dr. Douglas Leahy
Ms. Annette Marlar
Dr. Jon Winter

Present and representing the Office of General Counsel:

Ms. Lucy Bond

Also present:

Ms. Katy Gammon, Director, Health Care Facilities
Ms. Wanda Hines, Board Administrator
Ms. Ann Thompson, Director, Board for Licensing
Ms. Faye Vance, East TN Regional Administrator
Ms. Shirley Jones, West TN Regional Administrator
Ms. Nina Monroe, Middle TN Regional Administrator
Mr. Bill Harmon, Director of Engineering

A quorum was established by roll call vote.

Ms. Gammon introduced new board member Ms. Estelle Garner. Ms. Estelle Garner replaces Albert Jones as the Alcohol and Drug Abuse Center Representative.

APPROVAL OF MINUTES

The first order of business was approval of the February 1, 2006 minutes.

A motion was made and seconded to approve the minutes as written.

Motion carried.

REPORTS TO THE BOARD

Department Report

Trauma Care Designation Level Survey Reinspections

Mr. Joe Phillips, Director of Emergency Medical Services and an administrator of the trauma center inspection team are in the process of completing surveys of six (6) trauma centers in the state. The reports will be available by the August board meeting. This is the second onsite inspection during the five-year designation period.

Mr. Phillips also informed the board that he had applied last week for a grant on behalf of the Trauma Care Advisory Council to have a statewide trauma system assessment. This will be done by the American College of Surgeons Committee on Trauma. As you are aware that we have less capacity today to care for seriously injured patients than we did four or five years ago. All of our Level 1 centers are keys to the system. At one time we had nine Level 2 trauma centers now we only have one. The absence of several of those is causing problems in Memphis. The trauma community feels that it is appropriate that we get this grant and that we have this assessment and take a good detailed look at our system. Mr. Phillips assured the board members he will keep them posted as they move forward.

Nurse Aide Report

The Nurse Aide Report was included in the board packet. Any questions regarding the Nurse Aide Report, Wanda King, Nurse Aide Coordinator was in the audience to answer any questions.

Quarterly Report Update

Sun Valley Residential Home for the Aged

Wilma James, Attorney from the Office of General Counsel reported to the Board that Sun Valley Residential Home was brought before this board for a contested case hearing at its meeting in September and was continued to the meeting in November of 2005. Pursuant to that hearing and the Order of the Board, Sun Valley Home for the Aged was under monitoring by the State over the past six-month period of time. The staff has in fact set up a monitoring system for this facility. Ms. James asked Ms. Nina Monroe, Regional Administrator, Middle TN Regional

Office to present to the Board regarding the status of the facility and its ability to come into compliance as requested.

Ms. Monroe reported that a follow-up to the deficiencies cited on the February 27, 2006 survey was conducted on April 27, 2006. The facility was found in compliance with all of the outstanding deficiencies that were cited on the previous survey.

Ms. Katy Gammon, Director of Health Care Facilities stated since we found the facility in compliance after several monitoring visits that we discontinue the monitoring on a weekly or two-week basis. However, Ms. Gammon confirmed to the Board that we will make visits more frequent than six months or annually. If the Board would agree to that, we would like to discontinue the monitoring as it was stated in the Agreed Order. Also, Ms. Gammon asked that we don't have them come back for every quarterly meeting. The Department will report to the Board if we find any outstanding outliers in our visits.

Motion was made by Dr. Walker, seconded by Dr. Budd to:

DISCONTINUE THE FREQUENT MONITORING AT SUN VALLEY HOME FOR THE AGED, AND FACILITY STAFF DISCONTINUE REPORTING TO THE BOARD QUARTERLY.

Motion carried.

Dr. Galyon complimented the owners of Sun Valley Residential Home for the Aged in bringing its operation into compliance.

DISCUSSION

Extra Board Meetings

Ms. Gammon explained to the Board that legislation was passed almost three years that all nursing homes, residential homes for the aged and assisted-care living facilities submit sprinkler plans and bring their building into compliance with a sprinkler system. We have no concerns at this time with the nursing homes or the assisted-care living facilities. Those have come into compliance within the dates and time frames. We do have some residential homes that are outstanding. We have sent notification letters two to three different times that they are not in compliance. Our next step is for contested case hearings on these issues if they do not comply. This is the reason to schedule a couple of extra board meetings dates to hear these cases.

Dr. Galyon wanted our legal staff to explain to the Board what the Board members can or cannot do at a contested case hearing because this is statutory, not regulatory. Ms. Lucy Bond, Office of General Counsel explained to the Board that the only thing that we can do with a residential home for the aged, statutorily, is to suspend their license or to revoke it. The Board will either approve according to the sprinkler law or to revoke or suspend their license. The facility will have to come before the Board and the Board will make the decision. The Administrative Law Judge will preside over the contested case hearings. The hearings should be short because either they have complied or not complied with the law.

Dr. Budd asked are there any waivers involved? Ms. Gammon explained that the Board cannot waive a law and this is a law. Dr. Staples inquired about having the contested case hearing heard in the August meeting. Ms. Gammon stated that the Department must report back to the legislature by the end of the year. If we wait until August some of the cases may get continued and we won't make the deadline. Dr. Galyon proposed to schedule the meeting on Wednesday, June 28th and Thursday, June 29th, the last week in June.

A motion was made by Dr. Budd, seconded by Dr. Walker to:

SCHEDULE THE NEXT BOARD MEETING TO HEAR CONTESTED CASE HEARINGS ON JUNE 28-29, 2006.

Motion carried by voice vote.

Ms. Gammon explained we can wait to set the second meeting until after the August 2nd and 3rd board meeting. Dr. Walker suggested that we extend our board meeting dates and add the 4th of August and decide how many more we have to schedule at that time.

REGULATIONS

BOARD APPROVAL TO GO TO RULEMAKING HEARING

1. **1200-8-2 Standards for Prescribed Child Care Centers – Adult Protective Services Amendment**
2. **1200-8-6 Standards for Nursing Homes – Toll-free # and Patient Care Equipment Amendments**
3. **1200-8-34 Standard for Home Care Organizations Providing Professional Support Services – Adult Protective Services Amendment**

Motion was made by Dr. Walker, seconded by Dr. Budd to:

SEND THE STANDARDS FOR PRESCRIBED CHILD CARE CENTERS, STANDARDS FOR NURSING HOME, AND STANDARD FOR HOME CARE ORGANIZATIONS PROVIDING PROFESSIONAL SUPPORT SERVICES FOR RULEMAKING HEARING.

Motion carried by voice vote.

(RECONSIDERATIONS AND STAYS AMENDMENTS)

4. **1200-8-1 Standards for Hospitals**
- 1200-8-2 Standards for Prescribed Child Care Centers**
- 1200-8-6 Standards for Nursing Homes**
- 1200-8-7 Residential Home for Aged Quality Enabling Program**
- 1200-8-10 Standards for Ambulatory Surgical Treatment Centers**
- 1200-8-11 Standards for Homes for the Aged**

- 1200-8-15 Standards for Residential Hospices**
- 1200-8-17 Alcohol and other Drugs of Abuse Residential Rehabilitation Treatment Facilities**
- 1200-8-18 Alcohol and other Drugs of Abuse Non-Residential Treatment Facilities**
- 1200-8-19 Alcohol and other Drugs of Abuse DUI School Facilities**
- 1200-8-20 Alcohol and other Drugs of Abuse Prevention Program Facilities**
- 1200-8-21 Alcohol and other Drugs of Abuse Non-Residential Narcotic Treatment Facilities**
- 1200-8-22 Alcohol and other Drugs of Abuse Halfway House Treatment Facilities**
- 1200-8-23 Alcohol and other Drugs of Abuse Residential Detoxification Treatment Facilities**
- 1200-8-24 Standards for Birthing Centers**
- 1200-8-25 Standards for Assisted-Care Living Facilities**
- 1200-8-26 Standards for Home Care Organizations Providing Home Health Services**
- 1200-8-27 Standards for Home Care Organizations Providing Hospice Services**
- 1200-8-28 Standards for HIV Supportive Living Facilities**
- 1200-8-29 Standards for Home Care Organizations Providing Home Medical Equipment**
- 1200-8-32 Standards for End Stage Renal Dialysis Clinics**
- 1200-8-34 Standards for Home Care Organizations Providing Professional Support Services**
- 1200-8-35 Standards for Outpatient Diagnostic Centers**

Ms. Gammon explained to the Board the intent of the proposed rule amendment regarding appeals for reconsideration or stay of a Board ruling resulting from a contested case hearing. The amendment authorizes the member who chaired the hearing to decide whether to grant such a request and eliminates the current requirement to reconvene the entire Board to make that decision. Legal counsel has requested the Board add this standard language to each set of our rules.

Motion was made by Mr. Gordon, seconded by Ms. Burns to:

SEND THE STANDARDS FOR HOSPITALS, PRESCRIBED CHILD CARE CENTERS, NURSING HOMES, RESIDENTIAL HOME FOR AGED QUALITY ENABLING PROGRAM, AMBULATORY SURGICAL TREATMENT CENTERS, HOMES FOR THE AGED, RESIDENTIAL HOSPICES, ALCOHOL AND OTHER DRUGS OF ABUSE RESIDENTIAL REHABILITATION TREATMENT FACILITIES, ALCOHOL AND OTHER DRUGS OF ABUSE NON-RESIDENTIAL TREATMENT FACILITIES, ALCOHOL AND OTHER DRUGS OF ABUSE DUI SCHOOL FACILITIES, ALCOHOL AND OTHER DRUGS OF ABUSE PREVENTION PROGRAM FACILITIES, ALCOHOL AND OTHER DRUGS OF ABUSE NON-RESIDENTIAL NARCOTIC TREATMENT FACILITIES, ALCOHOL AND OTHER DRUGS OF ABUSE HALFWAY HOUSE

TREATMENT FACILITIES, ALCOHOL AND OTHER DRUGS OF ABUSE RESIDENTIAL DETOXIFICATION TREATMENT FACILITIES, BIRTHING CENTERS, ASSISTED-CARE LIVING FACILITIES, HOME CARE ORGANIZATIONS PROVIDING HOME HEALTH SERVICES, HOME CARE ORGANIZATIONS PROVIDING HOSPICE SERVICES, HIV SUPPORTIVE LIVING FACILITIES, HOME CARE ORGANIZATIONS PROVIDING HOME MEDICAL EQUIPMENT, END STAGE RENAL DIALYSIS CLINICS, HOME CARE ORGANIZATIONS PROVIDING PROFESSIONAL SUPPORT SERVICES, AND OUTPATIENT DIAGNOSTIC CENTERS TO FORWARD THE RECONSIDERATIONS AND STAY AMENDMENTS RULES FOR RULEMAKING HEARING.

Motion carried by voice vote.

APPROVAL FOR FINAL FILING

1. Behavioral Health Units in Nursing Facilities (1200-8-5) -Repeal

Motion was made by Dr. Budd, seconded by Ms. Chadwell to:

SEND THE BEHAVIORAL HEALTH UNITS IN NURSING FACILITIES FOR FINAL FILING.

Motion carried by roll call vote

2. Trauma Centers (1200-8-12) – Amendments

Ms. Gammon explained to the Board that comments were received as a result of the rulemaking hearing regarding the data reporting time frame. In the rules it states basically 15 days/ two weeks, and we had comments from the Tennessee Hospital Association, Erlanger independently, and Vanderbilt recommending 120 days to six months. The Department had already reviewed it and determined that two weeks was definitely too short, and would recommend 90 days. It is the Board pleasure as to what they want to do.

Mr. Joe Phillips explained to the Board that last year legislature passed a bill creating the Tennessee Trauma Registry and that empowered this board to pass rules to clarify the details, and what these rules are for. Mr. Phillips agreed with the comments that two weeks is too short. The State Trauma Registry is designed to take patient data from all trauma centers and top regional pediatric centers. The second phase under these rules is to request the trauma centers to send us their data directly and in turn we will send the same data elements to the National Trauma Databank for the trauma centers.

Ms. Gammon explained that the comments from the rulemaking hearing specified different time frame. Vanderbilt and Erlanger had suggested 120 days reporting span and the Tennessee Hospital Association suggestion was six months. Ms. Chris Clark from the Tennessee Hospital Association was present and spoke to the Board. Ms. Clark explained

that they had viewed the proposed rules and what we are currently doing based on the national guidelines for the voluntary submission and their rules and recommendations are that six months after the end of the calendar year, the data should be in for the prior year. The association wanted to make sure that those time lines are realistic for people. Ms. Clark stated we would recommend at least 120 days and we certainly recommended six months based on the national guidelines. Most of our facilities can comply with the 120 days.

Ms. Gammon reminded the Board that our regulations reflect reporting should occur after the end of each quarter.

Motion was made by Dr. Budd, seconded by Dr. Walker to:

AMEND THE TRAUMA CENTER RULES TO BE 120 DAYS AFTER THE ENDING OF EACH QUARTER AND SEND FOR FINAL FILING.

Motion carried by roll call vote

3. Standards for Pediatric Emergency Care Facilities (1200-8-30) – Amendments

Ms. Rhonda Phillippi representing the State Committee on Pediatric Emergency Care, which is an advisory committee that was established by state law statute in 1998, was present and addressed the Board. Ms. Phillippi stated that their committee request that the Board not vote on the final hearing of these rules because the State Committee is in the process of revising the entire packet of rules and regulations pertaining to emergency care. They found other deficiencies when they were doing the disaster preparedness grant as well as advanced life support and pediatric life support. The State Committee will be finished revising the rules and regulations in August.

Several board members discussed the procedure if additional amendments were established at a later time. The proposed amendments will still have to go through a rulemaking hearing. It was decided to forward the amendments.

Motion was made by Mr. Gordon, seconded by Dr. Budd to:

FORWARD THE STANDARDS FOR PEDIATRIC EMERGENCY CARE FACILITIES RULES FOR FINAL FILING.

Motion carried by roll call vote.

4. Residential Home for Aged Quality Enabling Program (1200-8-7) – Amendments

Motion was made by Mr. Gordon, seconded by Mr. Walton to:

SEND THE RESIDENTIAL HOME FOR AGED QUALITY ENABLING PROGRAM RULES FOR FINAL FILING.

Motion carried by roll call vote.

5. Fee Amendments

- 1200-8-1 Standards for Hospitals**
- 1200-8-2 Standards for Prescribed Child Care Centers**
- 1200-8-6 Standards for Nursing Homes**
- 1200-8-10 Standards for Ambulatory Surgical Treatment Centers**
- 1200-8-11 Standards for Homes for the Aged**
- 1200-8-15 Standards for Residential Hospices**
- 1200-8-24 Standards for Birthing Centers**
- 1200-8-25 Standards for Assisted-Care Living Facilities**
- 1200-8-26 Standards for Home Care Organizations Providing Home Health Services**
- 1200-8-27 Standards for Home Care Organizations Providing Hospice Services**
- 1200-8-28 Standards for HIV Supportive Living Facilities**
- 1200-8-29 Standards for Home Care Organizations Providing Home Medical Equipment**
- 1200-8-32 Standards for End Stage Renal Dialysis Clinics**
- 1200-8-33 Standards for Home Care Organizations Providing Professional Support Services**
- 1200-8-34 Standards for Outpatient Diagnostic Centers**

Motion was made by Mr. Gordon, seconded by Dr. Budd to:

FORWARD FEE STRUCTURES FOR HOSPITALS, PRESCRIBED CHILD CARE CENTERS, NURSING HOMES, AMBULATORY SURGICAL TREATMENT CENTERS, HOMES FOR THE AGED, RESIDENTIAL HOSPICES, BIRTHING CENTERS, ASSISTED-CARE LIVING, HOME CARE ORGANIZATIONS PROVIDING HOME HEALTH SERVICES, HOME CARE ORGANIZATIONS PROVIDING HOSPICE SERVICES, HIV SUPPORTIVE LIVING FACILITIES, HOME CARE ORGANIZATIONS PROVIDING HOME MEDICAL EQUIPMENT, END STAGE RENAL DIALYSIS CLINICS, HOME CARE ORGANIZATIONS PROVIDING PROFESSIONAL SUPPORT SERVICES, AND OUTPATIENT DIAGNOSTIC CENTERS FOR FINAL FILING.

Motion carried by roll call vote.

WAIVER REQUESTS

Ms. Gammon gave a brief summary of each of the following waiver requests:

THE VILLAGE AT GERMANTOWN, GERMANTOWN

This facility is requesting a waiver for Mr. Ryan Hargrove to serve as Administrator of this ten (10) bed assisted-care living facility, as well as serving as administrator for eight (8) Alzheimer's ACLF units and thirty (30) SNF beds. The construction of the Health Center building should be completed by May 2006.

Mr. Robert Gordon and Mr. James Weatherington recused themselves from the discussion and vote.

Motion was made by Dr. Walker, and seconded by Mr. Gregory to:

GRANT A WAIVER TO ALLOW ONE ADMINISTRATOR TO SERVE AS ADMINISTRATOR FOR THE ASSISTED-CARE LIVING FACILITY AS WELL AS SERVING AS ADMINISTRATOR FOR THE NURSING HOME FACILITY.

Motion carried by voice vote.

AMERICARE HEALTH CENTER OF MEMPHIS, LLC, MEMPHIS

This two hundred-thirty seven (237) bed nursing home is requesting an extension waiver of the requirement for a licensed nursing home administrator until a replacement can be found. Michael E. Hampton, Chief Executive Officer has assumed temporary responsibility with the assistance of the director of nursing for administration of the facility.

Motion was made by Dr. Budd, and seconded by Dr. Staples to:

A SIXTY (60) DAY EXTENSION WAIVER WAS GRANTED TO ALLOW THE FACILITY TO OPERATE WITHOUT A LICENSED NURSING HOME ADMINISTRATOR UNTIL AN ADMINISTRATOR CAN BE HIRED.

Motion carried by voice vote.

TENNESSEE CHRISTIAN MEDICAL CENTER, MADISON

Tennessee Christian Medical Centers, Madison is a two hundred seventy-three (273) bed facility requesting a waiver to discontinue medical/surgical services and to no longer operate a full service Emergency Department. These services will be consolidated into the Skyline Medical Center, Nashville campus. Tennessee Christian Medical Center will have rehabilitation and psychiatric services. Mr. Walton, board member recused himself.

Mr. Jerry Taylor, Attorney representing Tennessee Christian Medical Center and other HCA facilities was present and addressed the Board. Mike Garfield, CEO of Skyline Medical Center and Ernie Bacon with Tennessee Christian Medical Center were also present. Mr. Taylor stated HCA owns Tennessee Christian Medical Center in Madison as well as Skyline Medical Center in Nashville. Tennessee Christian Medical Center has faced financial challenges over the years, prior to HCA purchasing it. To turn the hospital around HCA proposes to consolidate and reallocate services between two facilities, Skyline and Tennessee Christian. The plan is to consolidate all inpatient rehabilitation and inpatient psychiatric services at Tennessee Christian and consolidate all of the medical/surgical services at Skyline Medical Center as well as a full-time emergency room at Skyline Medical Center. Skyline Medical Center has space for future expansion for medical/surgical services.

Motion was made by Dr. Budd, seconded by Mr. Hastings to:

GRANT A WAIVER EFFECTIVE JUNE 1, 2006 TO ALLOW TENNESSEE CHRISTIAN MEDICAL CENTER TO DISCONTINUE MEDICAL/SURGICAL SERVICES AND TO NO LONGER OPERATE A FULL SERVICE EMERGENCY DEPARTMENT THROUGH DECEMBER 31, 2006.

Motion carried by voice vote.

STONES RIVER HOSPITAL, WOODBURY AND DEKALB HOSPITAL, SMITHVILLE-SATELLITE REQUEST

Stones River Hospital, a 60-bed facility is seeking a waiver for DeKalb Hospital a 71-bed hospital located in Smithville, TN to become a satellite of Stones River Hospital.

Mr. Don Downey, Administrator of Stones River Hospital was present and spoke to the Board. Stones River Hospital was going to be closed in 1999 and some doctors and local investors bought it. They have also had an opportunity to purchase DeKalb. They have consolidated their medical staff and it will be 15 primary care doctors. They will have a general surgeon and hopefully a full-time urologist. They are not going to eliminate any services. They are planning to change the name of DeKalb to DeKalb Community Hospital and keep the name for Stones River. It will look like two hospitals, separate, but at the bottom of the sign will state the association with the other.

Motion was made by Mr. Walton, seconded by Dr. Walker to:

ALLOW DEKALB HOSPITAL IN SMITHVILLE TO BECOME A SATELLITE OF STONES RIVER HOSPITAL, WOODBURY.

Motion carried by voice vote.

ALTERRA STERLING HOUSE OF GOODLETTSVILLE, GOODLETTSVILLE

Alterra Sterling House of Goodlettsville is a forty-nine (49) bed ACLF facility is requesting a waiver to place their license in an inactive status. They are repairing all damages from the tornado and remodeling the building. The repair and remodel period is estimated to be 90 to 180 days.

Motion was made by Dr. Budd, seconded by Mr. Gordon to:

A ONE HUNDRED EIGHTY (180) DAYS WAIVER WAS GRANTED TO ALLOW THE FACILITY TO PLACE THEIR LICENSE ON INACTIVE STATUS THROUGH NOVEMBER 1, 2006.

Motion carried by voice vote.

CONSENT CALENDAR

Dr. Walker recused himself from discussion and vote.

Motion was made by Mr. Hastings and seconded by Dr. Budd to:

APPROVE ALL WAIVER REQUESTS ON THE CONSENT CALENDAR.

Motion carried by voice vote.

THE FOLLOWING NURSING HOMES ARE REQUESTING WAIVERS TO PROVIDE OUTPATIENT THERAPY SERVICES AS PROVIDED FOR BY BOARD POLICY #32:

Trevecca Health Care Center, Nashville
Smith County Health Care Center, Carthage
Fairpark Healthcare Center, Maryville
Bethany Health Care Center, Nashville
Glen Oaks Convalescent Center, Shelbyville

THE FOLLOWING FACILITY WAS GRANTED A WAIVER TO PROVIDE ADULT DAY CARE SERVICES IN ACCORDANCE WITH BOARD POLICY #32-A:

Morgan Cares Senior Care Facility, Memphis
The Fannie B Manor, McMinnville
Cheyenne Trace Assisted Living, Jackson

THE FOLLOWING FACILITY IS REQUESTING APPROVAL TO SHARE SERVICES IN ACCORDANCE WITH BOARD POLICY #51:

The Village at Germantown, Germantown

ADDITIONAL BUSINESS

Ms. Katy Gammon introduced to the Board, our newest staff member, Mrs. Ann Thompson, Licensure Manager who replaced Ms. Cathy Green. Ms. Thompson is a Registered Nurse with a master's in administration.

Ms. Gammon also announced to the Board that the official date for our office to relocate is June 7, 2006. The location is 227 French Landing in Metro Center. We are not sure if the conference room will be completed in time for our next board meeting so we may be at the Millennium Maxwell House Hotel again. We will send the announcement of the location before the next board meeting.

Ms. Gammon explained to the Board that she had spoken with the Regional Administrators from East, Middle and West regarding the Residential Homes for the Aged facilities that haven't complied with the sprinkler compliance and was informed that we will be looking at around twenty facilities from all three regions.

Mr. Gordon complimented Wanda Hines and staff for getting information prepared and forwarded to the Board members in a timely manner. The materials are organized and easy to follow through the meetings. Mr. Walton expressed his agreement on the staff as well.

With all business concluded, Dr. Galyon adjourned the meeting.

Respectfully submitted,

James T. Galyon, M.D.